



Phillips Lytle LLP

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March 31, 2015

Hon. Alvin K. Hellerstein
United States District Court
Southern District of New York
Room 1050
500 Pearl Street
New York, New York 10007

Re: Vera, *et al.* v. The Republic of Cuba, *et al.*
Case No. 1:12-cv-01596 (AKH)

Dear Judge Hellerstein:

We represent Respondent/Garnishee HSBC Bank USA, N.A. ("HSBC") in this judgment enforcement proceeding and write jointly on behalf of HSBC, Bank of America, N.A., Barclays Bank PLC, Citibank, N.A., JPMorgan Chase Bank, N.A., UBS AG, Wells Fargo Bank, N.A., Deutsche Bank Trust Company Americas, The Bank of New York Mellon, Standard Chartered Bank and Banco Bilbao Vizcaya Argentaria, S.A. (collectively, the "Garnishee Banks").

Earlier today the Garnishee Banks filed a motion for reconsideration (the "Reconsideration Motion") (Dkt. Nos. 740, 741) of this Court's March 17, 2015 Order and Judgment for Turnover of Specified Uncontested Phase I Accounts (Dkt. No. 739-1) (the "Order"), which granted Petitioners' Motion to Complete Turnover of Phase I Accounts Not in Dispute (Dkt. Nos. 658-660, 667) (the "Turnover Motion"). In accordance with this Court's Individual Rule 1.D., the Garnishee Banks respectfully request an extension of the deadline contained in the Order and to stay the time by which they must comply with the Order pending adjudication of the Reconsideration Motion. As indicated in the Reconsideration Motion, the Garnishee Banks are also willing to hold all proceedings in abeyance pending disposition of the petitions for writs of *certiorari* that we understand the petitioners in *Calderon-Cardona v. Bank of New York Mellon*, 770 F.3d 993 (2d Cir. 2014) and *Hausler v. JP Morgan Chase Bank, N.A.*, 770 F.3d 207 (2d Cir. 2014) intend to file.

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At least a limited adjournment is necessary because the Order provides that the Garnishee Banks “shall turn over the funds in the Uncontested Turnover Accounts with all accrued interest thereon to the U.S. Marshal” on the twentieth business day from service of the Order (i.e. April 14, 2015). *See* Order p. 10.

As set forth more fully in the Reconsideration Motion, Petitioners have not yet satisfied their burden on the Turnover Motion, in light of the Second Circuit’s recent holdings in *Calderon-Cardona* and *Hausler*. Accordingly, the Garnishee Banks respectfully submit that the relief granted in the Order is, at best, premature.

As required by Individual Rule 1.D., please note the following: (i) the original date for turnover is April 14, 2015; (ii) no previous requests for an extension of the turnover deadline have been made; (iii) the Garnishee Banks requested that Petitioners consent to the extension, however, Mr. Perkins and Mr. Swift refused, stating that they are concerned about the uncertainty of future Cuban/U.S. relations, as well as their displeasure with the overall length of this proceeding to date, while Mr. Levitt was not inclined to give a reason for his refusal to consent; and (iv) the only other date impacted by the requested extension is the date by which the U.S. Marshal would turn the funds over to Petitioners’ counsel of record (*see* Order ¶5).

In sum, Petitioners will not be prejudiced by the relief sought by the Garnishee Banks by this letter. The Garnishee Banks will, however, be prejudiced if they are required to comply with the Order pending the Reconsideration Motion. While there is no cause for concern regarding Petitioners’ security (as the blocked EFTs are being held by the Garnishee Banks pursuant to regulations promulgated by the Office of Foreign Assets Control), the Garnishee Banks face a real threat of being exposed to liability resulting from their turnover of funds to which Petitioners are not entitled. Therefore, the Garnishee Banks respectfully submit that a brief extension of the deadline pending the Court’s determination of their motion for reconsideration is warranted.



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Thank you for your consideration.

Respectfully submitted,

Phillips Lytle LLP

By /s/ Sean C. McPhee

Sean C. McPhee

cc All Counsel of Record (via ECF)

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